IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 7046 of 2007(L)

OS.102/2006 of ADDL.M.C.,KOZHIKODE-I

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PETITIONERS:

1. A.P.ABDUL KHADAR MOULAVI, S/O.ZAINUDEEN,
   EDAVANNA AMSOM, PATHAPIRIYAM DESOM,
   ERNAD TALUK.

2. K.P. ABDURAHIMAN, S/O. FAKRUDEEN,
   AGED 56 YEARS, PUTHANPURAYIL HOUSE,
   NALLALAM AMSOM DESOM, KOZHIKODE TALUK.

3. K. AVARAN KOYA, S/O. ABDUL KHADAR,
   NALLALAM AMSOM DESOM, KOZHIKODE.

4. P. MOIDEENKUTTY, S/O. MUHAMMED KOYA,
   NALLALAM AMSOM DESOM, KOZHIKODE.

BY ADV. SMT.PRABHA R.MENON
SRI.M.KRISHNAKUMAR

RESPONDENTS:

1. M.V. SEETHIKUTTY, S/O.M.V.MUHAMMED,
   V.P. HOUSE, KALLAI, KOZHIKODE-3.

2. P. ABDUL LATHEEF, S/O. MOYINKUTTY,
   SAKKEER NIVAS, BIG BAZAR, KOZHIKODE.

BY ADV. SRI.C.KHALID
SRI.R.O.MUHAMED SHEMEEM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 7046 of 2007 L

JUDGMENT

This writ petition is filed by the defendants in O.S.No.102/06 on the file of the I Additional Munsiff's Court, Kozhikode, against Exhibit P9 order passed by the Munsiff, refusing to stay the suit under section 10 of the Code of Civil Procedure.

2. Having heard the parties at length, I am not of the view that Section 10 is applicable to have stay of O.S.No.102/06 being ordered for reason of pendency of O.S.No.568/02. However, to avoid further disputes between the parties, it is ordered that trial of O.S.No.102/06 can be proceeded with, but, the said suit need be disposed of only after the disposal of O.S.No.568/02, pending on the file of the I Additional Munsiff's court, Kozhikode. Parties shall complete all pre-trial steps in O.S. No.102/06 positively within one week from today, as

submitted. In the meanwhile, O.S.No.568/02 can be disposed of and O.S.No.102/06 can be listed for trial. The learned Munsiff will proceed with the trial of the suit accordingly.

With this direction, this writ petition is disposed of. Parties are at liberty to produce a copy of this judgment before the Munsiff, so as to enable him to abide by the above directions without delay.

8th March, 2007 (K.P.Balachandran, Judge)

tkv